

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 3433 of 2004

Between:

M. Naga Raju, S/o. Basavaiah,
R/o. 5-46, post Mandal & Village, Elamanchili, W.G.District.

..... PETITIONER

AND

- 1 The Regional Manager, APSRTC., W.G.Region, Eluru, W.G.District.
- 2 The Divisional Manager, APSRTC., Tanuku Division, Tanuku, W.G.District.
- 3 The Depot Manager, APSRTC., Bheemavaram, W.G.District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records from the respondents in connection with orders dated 22.10.2003 and 28.6.2002, and issue an appropriate writ, order or direction, particularly one in the nature of Writ of Mandamus, declaring that proceedings No.PA/19[48]/2003-DVM/TNK, dated 22.10.2003, rejecting the appeal as time barred by the 2nd respondent and proceedings No.02/62[58]/2002-BVRM dated 28.6.2002 of the 3rd respondent, deleting name of the petitioner from the approved list/select list with immediate effect as a measure of punishment as arbitrary, illegal, unjust, contrary to law, contrary to the Regulations of the Corporation and also in violation of Articles 14 and 21 of the Constitution of India, and grant all consequential benefits.

Counsel for the Petitioner: MR.P.SRIDHAR RAO

Counsel for the Respondents : MR.VENKATESWARLU POSANI

The Court made the following :

ORAL ORDER:

The petitioner questions the order, dated 28.6.2002 of the 3rd respondent in deleting the name of the petitioner from the approved/select list of the Casual Conductors on the ground that the petitioner committed certain irregularities, which are very serious in nature.

The 3rd respondent, in his order, stated that if the petitioner continued in the organization, his continuance of service would not only spoil the discipline from among the co-employees but also increase the losses and in view of the irregularities committed by the petitioner, his work is unsatisfactory in terms of the appointment order issued to him and he is not suitable for regular appointment. It is further stated that for certain irregularities said to have been committed by the petitioner, a charge memo dated 30.5.2002 was issued to him and based on the charge memo, a show cause notice, dated 7.6.2002 was issued calling upon the petitioner to submit his explanation within seven days from the date of receipt of the show cause notice to show cause why his name should not be deleted from the approved/select list on the ground of unsuitability for regular appointment, but the petitioner did not take the show cause notice. Therefore, a copy of the said notice was exhibited in the Notice Board for a period of 7 days and a compliance report was submitted by the A.M.(T), Bhimavaram who exhibited the show cause notice by taking

signature of two witnesses with regard to the proof of exhibiting the notice and as there was no explanation from the petitioner, his name was deleted from the approved/select list.

The allegation of the petitioner is that while he was working as Casual Conductor in the 3rd respondent Depot, on 30.5.2002, Cash and Ticket Irregularities Enforcement Squad, Tanuku, conducted a sudden check on the bus bearing No.AP9Z 1977 and found that the petitioner committed cash and ticket irregularities and collected Rs.3/- from one passenger and failed to issue him ticket. At that time, only three passengers were travelling on the bus and out of three, one passenger was not issued ticket by the petitioner. For the aforesaid reasons, a show cause notice, dated 7.6.2002 was issued to him asking to show cause why his name should not be deleted from the approved/select list and in pursuance of the show cause notice, he issued an explanation in June, 2002 but the respondents, without considering his explanation, passed the impugned order.

Though the learned counsel appearing for the petitioner has stated that the petitioner filed an explanation to the show cause notice in the month of June, 2002, the respondents denied the same in their counter stating that no such explanation was given. When the show cause notice was exhibited for a period of 7 days, the petitioner failed to submit any explanation. More so, it is not even the case of the petitioner that there was no exhibition of show cause notice in the notice board for a period of 7 days, and therefore, it cannot be said that it is not a sufficient way of issuance of the show cause notice.

The only ground taken by the petitioner is that his explanation was not considered. But, the respondents, in their counter, contended that no such explanation was filed in the month of July, 2002. On the other hand, after a period of one year, the petitioner filed an appeal before the appellate authority and the same was rightly dismissed. When the allegations made in the show cause notice were not disputed, the question of conducting regular enquiry does not arise. No doubt, the regulations have no application to the

Casual Conductors as held by this Court and whenever such Casual Conductors/Drivers are sought to be removed, the principles of natural justice require to be followed while conducting the enquiry, but in the absence of denial of any allegations made in the show cause notice by the petitioner, the question of conducting regular enquiry does not arise.

Therefore, I do not see any merits in this writ petition and accordingly it is dismissed. However, there shall be no order as to costs.

(V.ESWARAIAH, J.)

30th September, 2004.

To

- 1 The Regional Manager, APSRTC., W.G.Region, Eluru, W.G.District.
- 2 The Divisional Manager, APSRTC., Tanuku Division, Tanuku, W.G.District.
- 3 The Depot Manager, APSRTC., Bheemavaram, W.G.District.

4 Two C.D. copies

Note: Furnish Copy in one week

B/o

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